But the fact that Kaolin Bhd. and Ng Construction were unable to agree on increased price did not affect the contract which had been concluded earlier. Since the parties could not agree on increased price they should carry out the contract which they had earlier concluded.

As a further or an alternative ground of defence it was pleaded by Kaolin Bhd. that the letter of acceptance of Ng Construction's quotation was written by a person without authority. The letter of acceptance dated December 27, 1969 bears the letter head and the chop of Kaolin Bhd. It shows that a copy of it was extended to the Secretary of Kaolin Bhd. *Prima facie* it was written with authority, and the burden lies on Kaolin Bhd. to show that Roland Lee who signed the letter had no authority to accept the quotation and to issue the letter. At the trial evidence was adduced to show that Roland Lee was not a director of Kaolin Bhd. but employed by Kaolin Bhd. as Production Assistant. There was no evidence to show that Roland Lee had not been instructed or authorised to issue the letter. In a subsequent letter dated January 6, 1970 (Exhibit P5) sent by Kaolin Bhd. to Ng Construction it was stated as follows:—

"This letter supersedes our letter of offer to you dated December 27, 1969."

The word "our" in the above statement seems to recognise that the letter of December 27, had been issued with authority. That the letter of January 6, 1970 was intended to supersede the letter of December 27, 1969 also shows such recognition. If the letter of December 27, 1969 had not been issued with authority, there would not be question of superseding and the fact of lack of authority would have been stated in the letter of January 6, 1970.

It is clear from their letters dated January 6, 1970 and January 28, 1970 (Exhibits P5 and P6) that Kaolin Bhd. decided not to carry out the contract created by the exchanged letters of December 15, 1969 and December 27, 1969, and therefore there was a breach of the contract on their part for which Ng Construction are entitled to damages. As to the claim for special damages, the witness for Ng Construction admitted that there were no receipts to support the claim. As to general damages there is not much evidence to help the Court to ascertain the proper amount. But it is clear from the unchallenged evidence of Ng Shin Cheh that Ng Construction incurred expenses in getting draft and final plans to be prepared, getting photo copies of the plans, looking for workers and machineries, arranging transportation to bring workers to see the work site, and buying some materials. Therefore the Court is left to fix the amount of damages as best as it can. Under the circumstances I consider that general damages of $10,000 should be a fair compensation for loss of profit and other losses suffered by Ng Construction.

Accordingly I order that the appeal be allowed and that judgment be entered for Ng Construction in the sum of $10,000 being general damages. I also order that they should have the costs in this Court and in the court below.

Appeal allowed.

Solicitors: *Fernandez & Co.; Mah-Kok & Din.*

RENAS DEVELOPMENT SDN. BHD. v. PEMUNGUT HASIL TANAH, DAERAH TIMUR LAUT, PULAU PINANG

[O.C.J. (Edgar Joseph Jr. J.) May 18, 1984]
[Penang — Land Aquisition Reference No. 19 of 1979]

Land Law — Land Acquisition — Consent order — Payment of additional sum — Interest whether payable — Rate and date if payable — Land Acquisition Act, 1960, ss. 32, 37, 45, 47 & 48 — R.H.C. 1980, O.42 r. 12.

The questions in this case are, in a land reference under s. 37(1) of the Land Acquisition Act, 1960, where the High Court has recorded a consent order for payment of an additional sum by way of compensation, whether interest is payable on such sum and, if so, at what rate and from what date ought it to run.

The respondent objected to the payment of interest on principle and alternatively on quantum, arguing that the consent order was an award.

Held: (1) the consent order was not an award within the meaning of the Act;

(2) interest on the additional sum is payable and shall run from the date of its pronouncement until payment. The rate of interest should be 6% in the discretion of the court under O.42 r. 12 of the Rules of the High Court, 1980.

Case referred to:

(1) *Parsons* v. *Mather & Platt Ltd.* [1977] 2 All E.R. 715.

LAND ACQUISITION REFERENCE.

Ho Sen Feek for the applicant.
Mohd. Saari Yusoff (State Legal Adviser) for the respondent.

Cur. Adv. Vult.

Edgar Joseph Jr. J.: Where the High Court has recorded a consent order requiring payment of an additional sum by way of compensation in a reference to it under s. 37(1) of the Land Acquisition Act, 1960 ("the Act") is interest payable on such sum and, if so, at what rate and from what date ought it to run? These are the questions arising on this application by way of Notice of Motion made by the person interested within the meaning of s. 2 of the Act which is now before me.

Encik Mohd. Saari bin Yusoff, the State Legal Adviser, who appeared for the Collector objected to the grant of interest on principle and, alternatively, on quantum. He argued that the consent order in this case was *an award* under the Act and not a judgment in an ordinary civil suit. He relied on sections 32 and 48 of the Act which deal with the payment of interest by the Collector.

Section 32(1) and (1B) read as follows:

"When the amount of any compensation awarded under this Act in respect of any land is not paid or deposited on or before taking possession of such land, the Collector shall pay the amount awarded with interest thereon at the rate of six per cent per annum from the time of so taking possession until the time of such payment or deposit.

. . . . . .

"(1B) Where, in the case of an award the payment of which is subject to subsection (1) of section 29A, seventy-five per cent of the amount of the award is not paid or deposited on or before taking possession of the land in respect of which the award is made, the Collector shall pay on the amount paid under subsection (3) or (4) of that section interest at the rate of six per cent per annum from the time of so taking possession until the time of payment or deposit of seventy-five per cent of the amount of the award."

Section 48 reads as follows:

"If the sum which in the opinion of the Court the Collector ought to have awarded as compensation is in excess of the sum which the Collector did award as compensation, the award of the Court may direct that the Collector shall pay interest on such excess at the rate of six per cent per annum from the date on which the Collector took possession of the land to the date of payment of such excess to the Court or to the person interested."

He accordingly submitted that s. 48 being a special measure overrides O.42 r.12 of the Rules of the High Court, 1980, which is a general measure. He further submitted that it was in fact never agreed whether interest should be paid or even when payment of compensation would be made.

His primary submission therefore was that no interest should be awarded since there was nothing in the order to provide for its payment although the Court had power under s.48 to make such an award. Alternatively, he submitted that even if the Collector is liable to pay interest, this should be at the rate of six per cent per annum and should run from the date of service of the order of the Collector, i.e., July 7, 1982, and not from date of pronouncement of the Order, i.e., February 3, 1982. The Collector in fact paid the amount of compensation referred to in the Order on February 7, 1983, after a number of reminders had been sent.

In my opinion, the consent order was certainly not an award within the meaning of the Act.

Section 47 (1) of the Act provides that every decision shall be in writing, signed by the Judge and by the assessor or assessors, if any, concurring therein.

Section 47 (2) provides for the contents of an award of compensation comprised in such decision.

Section 47 (3) goes on to provide that every written decision or award shall be deemed to be a decree and the statement of the grounds of any such award a judgment within the meaning of the law for the time being in force relating to civil procedure.

In the instant case, the consent order was not signed by the assessors nor does it reflect their concurrence. In fact, it is obvious from the record that no assessors played any part in the proceedings which ended in the consent order being recorded.

In my opinion, therefore, sections 32 and 48 of the Act can have no application to the questions before me.

The result is that O.42 r.12 of the Rules of the High Court, 1980, applies. I am fortified in this view by s. 45(2) of the Act which provides that:

"Save in so far as they may be inconsistent with anything contained in this Act, the provisions of the law for the time

being in force relating to civil procedure shall apply to all proceedings before the Court under this Act."

Accordingly, on the authority of *Parsons* v. *Mather & Platt Ltd.*[1], I hold that interest on the additional sum referred to in the consent order shall run, not from the date it was perfected or served, but from the date of its pronouncement and shall continue to run until the date of payment thereof. In exercise of my discretion under O.42 r.12 of the Rules of the High Court, 1980, I further hold that the rate of such interest should be six per cent per annum, applying by analogy the rate prescribed by s.48 of the Act.

The costs of this application will have to be paid by the Collector to the Applicant.

Order accordingly.

Solicitors: *Gan Teik Chee & Ho.*

ASIA TELEVISION LTD. & ANOR. v. MEGA VIDEO RECORDING SUPPLY CENTRE

[O.C.J. (Zakaria Yatim J.) September 14, 1984]
[Kuala Lumpur – Suit No. C1713 of 1983]

Copyright – Whether foreign copyright owners were entitled to copyright protection in Malaysia in respect of works published in Hongkong – Copyright Act, 1969, ss. 2(2)(c), 6 & 20 – English Copyright Act, 1956, s. 49 (2)(d).

Copyright – Scope of section 2(2)(c) of the Copyright Act, 1969.

The first plaintiffs were a limited company incorporated under the laws of Hong Kong with a registered office in Hong Kong. The second plaintiffs were a limited company incorporated under the laws of Malaysia with a registered office in Kuala Lumpur. The first plaintiffs claimed that they were the copyright owners of the disputed cinematograph films.

On September 15, 1980 the second plaintiffs entered into a licence agreement with the first plaintiffs whereby the second plaintiffs were granted by the first plaintiffs the exclusive rights in Malaysia to (a) distribute the said cinematograph films produced by the first plaintiffs on videogram by way of rental and (b) to produce videograms of the said cinematograph films for rental distribution.

The plaintiffs claimed that the defendants had, without licence and/or consent from the plaintiffs, infringed the first plaintiffs' copyright by reproducing for distribution the said cinematograph films and/or distributing them or exhibiting publicly the infringing copy video cassettes. The plaintiffs applied to the court and obtained an *Anton Piller* Order against the defendants. The defendants sought to set aside the said order.

Held, allowing the defendants' application: (1) there is no provision in the Copyright Act 1969 which *directly* confers copyright in Malaysia in respect of works originating in a foreign country;

(2) since the first plaintiffs were a company incorporated under the laws of Hong Kong with a registered office in Hong Kong, they could not claim copyright under the Copyright Act in Malaysia in respect of the said cinematograph films broadcast in Hong Kong;

(3) there is no evidence that Malaysia had concluded any bilateral arrangement with the United Kingdom to protect copyright of works originating in Hong Kong. Malaysia, therefore, is under no legal obligation whatsoever to protect copyright of works originating in foreign countries;

(4) since the second plaintiffs were not the authors of the said cinematograph films they could not claim any copyright in this country because copyright conferred by section 6 of the Copyright Act rests only in the author;

(5) since both the first and the second plaintiffs did not have copyright in respect of the said cinematograph films in this country, they were not entitled to the *Anton Piller* order granted on June 27, 1983. The said order should therefore be set aside.

Cases referred to :

(1) *Lee Yee Seng* v. *Golden Star Video Bhd.* [1981] 2 M.L.J. 43.
(2) *Television Broadcasts Ltd. & Ors.* v. *Mandarin Video Holdings Sdn. Bhd.* [1983] 2 M.L.J. 346.
(3) *Television Broadcasts & 2 Ors.* v. *Seremban Video Bhd.* [1985] 1 M.L.J. 171.

CIVIL SUIT.

Lim Soh Wah for the applicants/defendants.
Dato V.L. Kandan (S.F. Wong with him) for the respondents/plaintiffs.

Cur. Adv. Vult.

Zakaria Yatim J.: This is an application by the defendants to set aside an *Anton Piller* Order granted by the Court on June 27, 1983.

The relevant part of the Order is quoted below:–

"IT is ORDERED that:–

1. The Defendants whether by their partners, officers, servants or agents or any of them or otherwise howsoever be restrained by injunction from doing the following acts or any of them, that is to say:–